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**From:** Fischer, Adam@Waterboards [Adam.Fischer@waterboards.ca.gov]  
**Sent:** 2/13/2019 5:23:26 PM  
**To:** Smith, DavidW [Smith.DavidW@epa.gov]  
**CC:** Munoz, Charles [munoz.charles@epa.gov]  
**Subject:** Re: Promoting Market-Based Mechanisms for Improving Water Quality

David: Thanks for signaling a green light on market-based solutions. The memo is light on the details; it doesn't go into the risks and limitations of those solutions. But it's a good start.

One of those main challenges is reconciling the differences in the points of compliance and the objectives between TMDLs and 402(p); total waste load at the receiving water vs MEP at the outfalls. Where there's internal loading, total waste load includes wastes in existing discharges plus legacy loads that may or may not have viable responsible parties. The MEP standard doesn't effectively deal with legacy loads.

But I think that we can write NPDES permits (specifically MS4) where we can incentivize the permittee to clean up legacy loads if we can establish a nexus between the permittee and the responsible parties. We can also incentivize the permittee if we can make a trade-off; meeting water quality objectives in exchange for reduced liability. I can share our approaches to these and other issues with you sometime later. --Adam

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**From:** Smith, DavidW <Smith.DavidW@epa.gov>  
**Sent:** Wednesday, February 13, 2019 8:34:02 AM  
**To:** David W. Smith  
**Cc:** Munoz, Charles  
**Subject:** Promoting Market-Based Mechanisms for Improving Water Quality

Dear Colleagues:

I'd like to share a new policy memorandum issued last week by EPA's Office of Water that aims to help states, tribes, territories and stakeholders use market-based approaches to reduce pollutant discharges and improve water quality. EPA has supported the use of water quality trading, offsets pay-for-performance, and similar programs to help reduce pollution control costs and achieve compliance with Clean Water Act requirements for many years. This memo is intended to provide additional flexibility to assist the broader use of market-, incentive-, and community-based programs to supplement existing water quality improvement efforts. Please forgive any cross-postings, and please feel free to distribute this to other interested parties as you see fit.

EPA's actions are part of a larger multi-agency collaboration with stakeholders across the country to better coordinate and focus federal resources and authorities to address the nation's most challenging water resource concerns, including excess nutrients in waterways. EPA will host a webinar on March 5 to discuss the trading memo and our other ongoing work to reduce excess nutrients in waterways. To participate in the webinar, please send an email to [nutrients@epa.gov](mailto:nutrients@epa.gov). For more information, please visit [www.epa.gov/nutrient-policy-data/collaborative-approaches-reducing-excess-nutrients](http://www.epa.gov/nutrient-policy-data/collaborative-approaches-reducing-excess-nutrients). I will be interested to hear from you if you have questions or comments concerning the new memo, and am generally interested in assisting use of trading and other market-based approaches to environmental management happening in our Region. I can be reached at 415-972-3463 or [smith.davidw@epa.gov](mailto:smith.davidw@epa.gov). Please do not hesitate to contact me if I can be of further assistance.

Best regards,  
Dave

David Smith

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